NOAA Fisheries Correspondence

U.S. Department
of Transportation
**Federal Highway
Administration**

Central Federal Lands Highway Division
555 Zang Street
Mail Room 259
Lakewood, CO 80228

APR 2 3 2002

Refer To: HFHD-16, CA FH 114

Mr. David Ammoman
U.S. Army Corps of Engineers
P.O. Box 4863
Eureka, CA 95502

Dear Mr. Ammoman:

Subject: California Forest Highway (FH) 114, Hyampom Road

The Federal Highway Administration, in cooperation with the Forest Service, the California Department of Transportation, and Trinity County, is performing feasibility, environmental, design, and preliminary engineering studies for the proposed improvement of California FH 114, also known as Hyampom Road. The project begins at the intersection with State Route 3 in Hayfork and proceeds 35 km (22 miles) westerly to the community of Hyampom. The proposed improvements consist of reconstructing the portions from kilometer post (KP) 6.0 to 10.5 (milepost [MP] 3.7 to 6.5) and KP 13.7 to 23.0 (MP 8.5 to 14.3). Construction is expected to closely follow the existing road with possible minor deviations to improve substandard curves. Enclosed is the Reconnaissance and Scoping Report outlining the preliminary information on the project.

In considering the design of this proposal and its environmental impacts, we will follow the procedures included in the Nationwide Action Plan and the Project Development and Design Manual written for Federal Lands Highways projects. The procedures call for establishing a Social, Economic, and Environmental (SEE) Study Team to guide the project through its development stages, including the National Environmental Policy Act of 1969 (NEPA) process. Mr. Pat Flynn, Project Manager, and Ms. Stephanie Popiel, Staff Environmental Engineer, have been appointed as the Central Federal Lands Highway Division members and co-chairpersons of the SEE Study Team. Mr. Flynn will coordinate the engineering activities, and Ms. Popiel will coordinate the SEE aspects of the proposal.

We have scheduled a SEE Team/Interagency meeting to be held in the Forest Service office on Trinity Street in Hayfork, CA, on Tuesday, May 21, 2002, at 10 a.m. There will be a review of the project site in the field afterwards. This meeting will formally commence the environmental and design process for the project. Early coordination between all affected agencies will help facilitate a smooth process and ensure that the environmental document adequately addresses relevant issues. The goals of the meeting are:

- To identify the affected agency concerns,
- To inform all agencies of the process for preparing the environmental document and roadway design,
- To develop project goals and objectives, and
- To identify the issues and concerns that will be examined in detail in the environmental document.

If you have any questions, please contact Ms. Stephanie Popiel, Staff Environmental Engineer, at 303-716-2143 (email: stephanie.popiel@fhwa.dot.gov) or write to the above address, Attention: HFHD-16, CA FH 114.

Sincerely yours,

Patrick D. Flynn, P.E.
Project Manager

Enclosure

bc w/o enclosure:
S. Popiel
P. Flynn
reading file
Central File – CA FH 114, Hyampom Road
SPopiel:su:4/23/02:L:\ENVIRONM\WP\CA114\SEE request-Corps FWS NMFS.doc

Identical letters w/enclosure to:
Mr. Ray Bosch
Fish and Wildlife Service
1655 Heindon Road
Arcata, CA 95521

Mr. Chuck Glasgow
National Marine Fisheries Service
1655 Heindon Road
Arcata, CA 95521

U.S. Department of Transportation
Federal Highway Administration

Central Federal Lands Highway Division

555 Zang Street, Rm. 259
Lakewood, CO 80228

MAY 2 8 2004

Refer to: HFHD-16, CA FH 114

Mr. Michael Long
US Fish and Wildlife Service
1655 Heindon Road
Arcata, CA 95521

Attn: Ray Bosch

Dear Mr. Long:

Subject: Biological Assessment
California Forest Highway 114, Hyampom Road

Enclosed is a copy of the Biological Assessment (BA) for the proposed reconstruction project on California Forest Highway 114 (CA FH 114), also known as Hyampom Road. The project begins at the intersection with State Route 3 in Hayfork and proceeds 35 km (22 miles) westerly to the community of Hyampom. The proposed project consists of reconstructing the portions from kilometer post (KP) 5.9 to 10.6 (milepost [MP] 3.7 to 6.6) and KP 12.8 to 22.0 (MP 8.0 to 13.7) and is being proposed in cooperation with the US Forest Service and Trinity County. Construction is expected to follow the existing road with deviations to improve substandard curves.

The BA was developed, in part, through informal consultation with your office. To date, informal consultation with your office has consisted of attending project meetings and field reviews, written and e-mail correspondence, and telephone conversations with Federal Highway Administration (FHWA) staff or its representatives. The FHWA greatly appreciated the time and energy that you have invested in the informal consultation.

There are some clarifications on the information for the northern spotted owl critical habitat. On pg. 34 for the BA, the second sentence under "Critical Habitat" should be replaced with "This habitat unit is 5,100 hectares (12,700 acres) in size. Within California, there are 560,000 hectares (1.4 million acres) of northern spotted owl critical habitat." On pg. 37, the first sentence of the second paragraph under "Findings" should read, "Although widening of the existing road would involve the removal of 1.6 hectares (3.9 acres) of vegetation within the designated critical habitat, this does not represent a significant loss of available forage, cover, or breeding habitat or a barrier to the large expanse of contiguous habitat." In addition, according to Tom Quinn of the US Forest Service in Weaverville, CA, this habitat unit was originally designated more for protection of the Pacific fisher, and because the fisher is not known to inhabit the area, the purposes for which the habitat unit was designated are not as needed today.

In summary, the following effect determinations were made:

Common Name	Scientific Name	Federal Status	Potential to Occur in Project Area	Finding
Southern Oregon/Northern California coho salmon Environmentally Sensitive Unit (ESU)	*Oncorhynchus kisutch pop. 2*	Threatened	Low	No effect
Southern Oregon/Northern California coho salmon Critical Habitat			All accessible rivers within the described range, including Hayfork Creek	May effect, not likely to adversely affect
Bald eagle	*Haliaeetus leucocephalus*	Threatened	Present (non-breeding)	May effect, not likely to adversely affect
Marbled murrelet	*Brachyramphus marmoratus*	Threatened	Low	No effect
Northern spotted owl	*Strix occidentalis caurina*	Threatened	Present	May effect, not likely to adversely affect
Northern spotted owl Critical Habitat unit CA-35			A portion of the project is within the Critical Habitat Unit	May effect, not likely to adversely affect

Note: Although the California coastal Chinook salmon ESU (*Oncorhynchus tshawytscha*) was included in the species lists provided by the USFWS, the project area is outside the range of this species.

As you know, we have scheduled a meeting at the National Oceanic and Atmospheric Administration office in your building on June 10 at 8 am. I look forward to meeting with you to discuss the impacts the proposed project will have and to find out if you concur with the above determinations.

If you have any questions, please do not hesitate to contact Ms. Stephanie Popiel, Staff Environmental Engineer, at 303-716-2143 (email: Stephanie.Popiel@fhwa.dot.gov) or write to: Federal Highway Administration, Central Federal Lands Highway Division, Attn: Environment (CA FH 114), 555 Zang Street - Room 259, Lakewood, CO 80228.

Our office will be moving June 16-18. After that time, Ms. Popiel's telephone number will be 720-963-3690, and the mailing address will be 12300 West Dakota Avenue, Suite 280, Lakewood, CO 80228.

The FHWA appreciates your time and assistance on this project and we look forward to hearing from you soon.

Sincerely yours,

Richard J. Cushing

for Patrick D. Flynn, P.E.
Project Manager

Enclosure

Identical letter w/enclosure to:
Ms. Diane Ashton
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
1655 Heindon Road
Arcata, CA 95521

cc w/o enclosure:
Jan Smith, Trinity County, 303 Trinity Lakes Blvd., Weaverville, CA 96093
Loretta Meyer, CH2M HILL, 155 Grand Avenue, Suite 1000, Oakland, CA 94604-2681
bc w/o enclosure:
P. Flynn
S. Popiel
B. Nestel
Reading file
Central File – CA FH 114, Hyampom Road
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STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION, AND HOUSING AGENCY GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 2 OFFICE OF LOCAL ASSISTANCE
1657 RIVERSIDE DRIVE (96001)
P. O. BOX 496073
REDDING, CA 96049-6073
PHONE (530) 225-3034
FAX (530) 225-3020
TTY (530) 225-2019

Flex your power!
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June 7, 2004

RPSTPL-5905(038)
Bridge # 05C0067
EA02-454204

Irma Lagomarsino
National Marine Fisheries Service
1655 Heindon Road
Arcata, CA 95521

Dear Ms. Lagomarsino:

Request for Informal Consultation through Section 7 of the Endangered Species Act and Essential Fish Habitat Consultation for the Hyampom Road Improvement and Nine-mile Bridge at Hayfork Creek Rehabilitation Project, Trinity County

Two separate documents were prepared for Section 7 consultation for the Hyampom Road rehabilitation project. The Federal Highway Administration (FHWA) recently submitted a Biological Assessment to your office for Formal Section 7 Consultation for their portion of the project. The Trinity County Department of Transportation's consultants prepared the enclosed Biological Evaluation (BE) for the County's portion of the proposed project. The County proposes to improve approximately 1.5 miles of Hyampom Road along Hayfork Creek and to rehabilitate and widen the Nine-mile Bridge.

As a Designated Non-Federal Representative (through the FHWA), the California Department of Transportation (Caltrans) forwards a Biological Evaluation (BE) for the project and requests initiation of Section 7 Informal Consultation and Essential Fish Habitat consultation for the following fish species:

- **coho salmon** (*Oncorhynchus kisutch*), Southern Oregon/Northern California ESU, federal threatened, and its designated Critical Habitat.

In addition, the assessment is submitted to fulfill the requirements for Essential Fish Habitat (EFH) assessments under the Magnuson-Stevens Fishery Conservation and Management Act (amended by the Sustainable Fisheries Act of 1996, Public Law 104-267).

Based on technical information gathered by the County's consultant for the project, it is anticipated that NMFS will issue a *may effect, not likely to adversely affect* determination for the above listed species, a *not likely to adversely modify* determination for its critical habitat, and *not likely to adversely affect* coho EFH.

If you have any questions regarding the BE, please contact Candace Miller at 530-225-3034. Thank you.

Sincerely,

Enter ORR
FOR

JOHN PEDERSEN, Chief

Enclosure

cc: Karen Hans, NOAAF, w/enclosure
Jan Smith, Trinity County ✓
Candace Miller, Caltrans

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region Arcata Office
1655 Heindon Road
Arcata, California 95521

In response refer to:
151422SWR02AR6468:KMH

JUL 09 2004

Ms. Stephanie L. Popiel P.E.
Federal Highway Administration
Central Federal Lands Highway Division
12300 W. Dakota Ave, Ste - 280
Lakewood, Colorado 80228-2683

Dear Ms. Popiel:

Enclosed are National Marine Fisheries Service (NOAA Fisheries) comments on the Biological Assessment (BA) for the road reconstruction and repair project proposed for California Forest Highway 114, Hyampom Road State Route 3 (Hayfork) to Hyampom, California. Included are comments on the issues addressed by Ms. Karen Hans on June 10, 2004 at the NOAA Fisheries Arcata Area Office. Also included are additional comments Ms. Hans developed while reviewing the BA.

Please contact Ms. Hans (707) 825.5180 if you have any questions or concerns regarding these comments.

Sincerely,

Irma Lagomarsino
Supervisor, Arcata Field Office

cc John Cleckler CH2MHILL

Enclosure

Enclosure

Comments to the Biological Assessment (BA) for the reconstruction of Hyampom Road (Project).

These comments are prepared for the Federal Highway Administration, the lead Federal Agency, by Karen M. Hans, Fisheries Biologist, NOAA Fisheries, Arcata Area Office.

June 22, 2004

General Comments:

As we discussed at the meeting on June 10, 2004, it will be difficult for Federal Highways to meet the requirements of a May Affect, Not Likely to Adversely Affect (NLAA) Endangered Species Act (ESA) determination for coho salmon. This is because: (1) the size and scope of the Project; (2) the close proximity to Hayfork Creek to Project activities in some locations; (3) the number of stream crossings; and (4) the unknown quantity of sediment that could potentially be delivered to Hayfork Creek due to Project related activities. In my comments, I have detailed other ways, besides sediment, coho salmon could be adversely affected by the Project.

For a NLAA, the burden of proof is on the action agency to guarantee there will be no adverse affects. This means the BA has to contain a detailed description of proposed action, and a thorough analysis of Project activities explaining how they could adversely effect the fish, and why they will not.

The following are derived from the Glossary of the 1998 FWS/NOAA Fisheries ESA Consultation Handbook:

"Is not likely to adversely affect (NLAA):

> the appropriate conclusion when effects on listed species or designated critical habitat are expected to be discountable, insignificant, or completely beneficial.
>
> Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not:
>
> (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or
> (2) expect discountable effects to occur.
>
> Insignificant effects relate to the size of the impact and should never reach the scale where take occurs.
>
> Beneficial effects are contemporaneous positive effects without any adverse effects to the species.

Is likely to adversely affect (LAA):

- the appropriate conclusion if **any** adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not: discountable, insignificant, or beneficial. In the event the overall effect of the proposed action is beneficial to the listed species, but also is likely to cause some adverse effects, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires formal section 7 consultation."

With a NLAA determination, NOAA Fisheries must rely on the BA (and other supplied documents) for all the information on the Project, and then concur with the ESA determination. NOAA Fisheries can make no assumptions, or do any analysis, for the Project.

"The coho salmon are considered extirpated from the Action Area"

The problem with relying on the contention that coho salmon are extirpated from the action area is, while the fish may not have a known presence in the action area, there is no barrier to preclude their presence, and there is a established historical presence. Why are the fish considered extirpated? Is it lack of suitable habitat? Lack of fish? Furthermore, given the known presence of coho salmon is 10 miles downstream, and the Project time line projects to 2010, it is reasonable to assume coho salmon may be present in the Action Area during Project activities. However, acknowledging coho salmon may be present in the Action Area does not necessarily mean the Project will have a LAA determination. The problem is, if you base your determination on the fish not being present, and then they show up, the effects to the fish have not been considered and analyzed, and reinitiation with NOAA Fisheries is required.

Specific Comments
Page iii"
"BMP" Best Management Practices. Which ones? I have a reference book "Water Quality Management for Forest System Lands in California Best Management Practices" published by the USDA Forest Service Pacific Southwest Region. Are these the BMPs referred to in the BA?

Page 4:
1.2 Species Considered
In Table 1: ESU stands for Evolutionarily Significant Unit. The coho salmon's ESU is Southern Oregon/Northern California Coast (SONCC). I suggest defining SONCC as the acronym and use it throughout the remainder of the document. I don't know what is intended by *Oncorhynchus kisutch* "pop.2". I cannot agree with the determination of No Effect and NLAA until I have more information on the Project.

1.3 Critical Habitat:
For coho salmon, critical habitat includes riparian areas that provide: shade, sediment, nutrients,

stream bank stability, and input of large wood (including future recruitment).

Page 5:
1.4 Responsible Parties:
Because this Project is proposed on Shasta Trinity National Forest (STNF) lands, and a STNF special use permit is involved, there maybe standards, guidelines, or other regulations STNF is require to follow. For example, under the Northwest Forest Plan there are special standards and guidelines for management of land designated as Riparian Reserves. As there is at least some discretion (i.e. special use permit) involved by the STNF, they may be required to ensure certain standards and guidelines are followed by the Project.

Page 8, 3rd paragraph: "Shasta Trinity"; the STNF no longer uses a hyphen between Shasta and Trinity.

Page 15:
4. Description of Proposed Actions:
As we discussed at the meeting on June 10, 2004, a more thorough project description needs to be included in order for me to fully understand the scope and breadth of the Project. I am particularly interested in any aspect of the Project with the potential to adversely affect SONCC coho salmon. For example, ground disturbing activities near Hayfork Creek, culverts, fill, and interruption in hydrologic connectivity (i.e. gravel movement, large woody debris recruitment, insect drift, cold water refugia).

What about the Little Creek Bridge? Is it part of the proposed action? If so, include details on this aspect of the Project.

Page 17:
5. Action Area
End of first paragraph, I think (?) the last sentence should read "...in elevation *above* and 1.2 km (0.75 mi.) from the road...."

The Action Area for SONCC coho salmon includes those portions of Hayfork Creek and its tributaries that may be affected by Project activities. These affects may include: (1) fine sediment and turbidity at the Project location and however far they may travel downstream; (2) interruption of substrate and large wood transport; (3) interruptions or blocking of cool water refugia; and /or (4) changes in the hydrologic connectivity of the watershed.

Page 19
6. Biological Setting
This section needs information about the geology and soil types in the area, which is important to fish because of slope stability and sediment issues. For example, if soil erosion is primarily from coarse sediment (gravel), then the effects may be beneficial to fish (spawning gravel).

6.2 Ecological Setting and Vegetation Types:

Hayfork Creek - South Fork Trinity River, - Trinity River - Klamath River - Pacific ocean.

Page 24
6.3.1 Aquatic Habitat:
More information is needed about the environmental baseline conditions in the watershed. John Lang (STNF Fisheries Biologist) and I have text for this section.

Page 26:
7.2 Potential Effects of the Proposed Action
7.2.1. "Up to 0.12 ha (0.3 ac.) of Waters of the U.S...." This sentence needs further information. Is "Waters of the U.S." a specific designation? What are the affects that could occur? What are the mitigation measures proposed to reduce impacts to a less than significant level? Also, "minimization measures" may be a more accurate description of activities proposed to reduce impacts.

Page 27:
"Restoration activities will include erosion control and revegetation; these measures are expected to reduce temporary adverse effects to a less that significant level."

"The proposed action will not have an adverse effect on the natural hydrologic function in the Action Area."

These two statements are well and good, but there is not enough information in the description of the proposed action, the biological setting, or potential effects section to support them. The BA needs to explain what erosion control and re-vegetation measure are proposed, and why these measure will be sufficient to reduce adverse affects to a negligible and discountable level.

7.2.2 Fish Passage
"construction at the Little Creek Bridge" There is no mention of this in the Project description.

"Crossings will be dry during culvert replacement" Dry crossing construction activities can contribute sediment to creeks at the first Fall rains when exposed loose dirt can wash into waterways unless minimization measures are in place (mulching etc).

Non fish-bearing streams may contribute to suitable habitat conditions in Hayfork Creek by contributing cool water, gravel substrate, large wood, and insect drift. Will the Project interrupt any of these functions? For how long? To what degree? Will it be significant, and why/why not?

7.2.3.1
What is "Population 2"?

Distribution in the Action Area:
Since the BA states no fish surveys were done, more information is needed to support the

contention SONCC coho salmon are not present in the Action Area, and are not likely to be present during Project activities and for as long as the future Project related effects will continue. Section 7.1.2 states CDFG and USFS biologist were consulted. Is there a personal communication for reference, a report or survey for reference? Or, the BA can state the fish are currently considered extirpated, but may be present in the action area during Project activities. Then, the effects to the fish can be considered and accounted for with respect to the ESA determination. Remember, presence of coho salmon in the Action Area does not necessarily mean the ESA determination will be LAA. If the minimization measures are adequate to keep Project related sediment delivery and other potential adverse affects to a negligible and discountable level, a NLAA will be appropriate.

Potential Effects:
"... "primary constituent elements (PCE)" defined as physical and biological attributes essential to the species conservation." Defined by who (i.e. reference)? I would add rearing habitat to the list (off channel refugia). Also, what is "adequate riparian vegetation (shade, insects, large wood, streambank stability)?

Storm Water Pollution Prevention Plan (SWPPP): I need the details of this document, or the document can be added to the BA as an appendix. Then I can evaluate the erosion control measure and whether they will be adequate.

Cumulative Impacts:
Erosion control and water quality BMPs need to be detailed as to what and how will measures be implemented. The BMPs from the USDA Forest Service often state what should be done, like "prevent side cast from going in the creek", but not how it will be done.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

OCT 01 2004

In response refer to:
151422SWR03AR8949:KMH

John Pedersen
District Local Assistance Engineer
Department of Transportation
District 2
P.O. Box 496073
Redding, California 96049-6073

Re: Informal Consultation on Hyampom Road Improvement and Nine-Mile Bridge at Hayfork Creek Rehabilitation Project, Trinity County, California

Dear Mr. Pedersen:

On June 9, 2004, the National Marine Fisheries Service (NOAA Fisheries) received your June 7, 2004, letter and biological evaluation (BE) requesting informal consultation on the Hyampom Road Improvement and Nine-Mile Bridge at Hayfork Creek Rehabilitation Project (Project) pursuant to section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and its implementing regulations, 50 CFR § 402. This letter constitutes informal consultation on the Project. The Federal Highway Administration (FHWA) is providing funding for this action and has designated the California Department of Transportation (Caltrans) as its non-Federal representative for the purpose of ESA consultation. The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267, U.S.C. 1801 *et seq.*) and its implementing regulations [50 CFR § 600.920(j)], require that before a Federal agency may authorize, fund or carry out any action that may adversely affect Essential Fish Habitat (EFH), it must consult with NOAA Fisheries. Pacific salmon EFH is likely to occur in the action area. However, Caltrans has determined that the Project will not adversely affect EFH, and therefore, EFH consultation is not warranted.

The Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU) was listed as threatened under the ESA by NOAA Fisheries on May 6, 1997 (62 FR 24588). Critical habitat (CH) for SONCC coho salmon was designated by NOAA Fisheries on May 5, 1999 (64 FR 24049). California Department of Fish and Game and the Shasta Trinity National Forest consider SONCC coho salmon extirpated from the Project Area. However, as no barrier exists to preclude their presence, SONCC coho salmon are considered potentially present in the Project area and are considered in this consultation.

Post-it® Fax Note 7671	Date 10/5/04	# of pages ▶ 3
To Jan Smith	From Candace Miller	
Co./Dept. Trinity Co. DOT	Co. Caltrans	
Phone #	Phone # 225-3034	
Fax #	Fax #	

SONCC coho salmon CH is located in the Project area and is also considered in this consultation.

Proposed Action

The Project is located along 1.5 miles of County Road 301, approximately 7 miles west of Hayfork, in Trinity County, California. Caltrans proposes to widen Hyampom Road to two 11-foot lanes with two-foot shoulders, realign portions of the roadway to accommodate horizontal curves, raise the profile of the existing road for approximately 0.6 miles, construct a single-span bridge to replace the culvert at James Creek, replace two culverts on ephemeral drainages, and construct a walkway access to Eight Mile Trail. The Project will also widen the deck of the Hayfork Creek Nine-Mile Bridge to 27.5 feet, adding a new steel girder and augmenting the pier walls and spread footings; rehabilitate the existing bridge, including the replacement of the barrier rail, refinish the bridge deck and repaint the existing steelwork; and stabilize the new and existing embankment slopes through the placement of rock slope protection and retaining wall systems.

Effects of the Proposed Action

The Project will occur along a section of County Road 301 which runs adjacent to and crosses Hayfork Creek. Sections of the Project area, while outside the low flow channel, are within the ordinary high-water and/or 100-year flood plain of Hayfork Creek. All construction activities within the 100-year flood plain of Hayfork Creek, including culvert work, will occur between June 15 and October 15 (dry season operations). Adult coho salmon presence is not expected in Hayfork Creek adjacent to the Project area during dry season operations as they generally do not utilize Hayfork Creek until November. Juvenile coho salmon will not likely use Hayfork Creek adjacent to the Project area during the dry season operations because there is a lack of suitable habitat in the creek, due mostly to elevated water temperatures.

Due to the extent of Project activities and close proximity to Hayfork Creek, there is a potential for sediment and hazardous wastes from the Project area or debris from the bridge work to enter Hayfork Creek during Project activities, or during the first high water flows post-Project. However, adherence to Best Management Practices designed to minimize erosion (*e.g.*, geofabric, silt fences, straw bales, wattles, and temporary sediment basins), a Storm Water Pollution Plan developed following section 7-1.01G of Caltrans Standard Specifications, and other Project design standards related to minimizing sediment delivery should keep any sediment delivery to a negligible and discountable level. In addition, NOAA Fisheries fully expects that no hazardous wastes associated with Project activities will enter Hayfork Creek. Furthermore, Project activities to repair and rehabilitate Nine-Mile Bridge will require the bridge be fully encapsulated during sandblasting and painting. All disposal of debris will conform to all applicable Federal, State, and local hazardous waste laws (*e.g.*, Health and Safety Code, Division 20, Chapter 6.5; Title 22, California Code of Regulations, Chapter 30; and Title 8, California Code of Regulations).

Conclusion

Based on our review of the Project description, an August 27, 2004, site visit, and discussions with Caltrans, NOAA Fisheries concurs with Caltran's determinations that the Hyampom Road Improvement and Nine-Mile Bridge at Hayfork Creek Rehabilitation Project is not likely to adversely affect threatened SONCC coho salmon or their designated CH. These determinations are based on the best available scientific and commercial information.

This concludes informal consultation for the Hyampom Road Improvement and Nine-Mile Bridge at Hayfork Creek Rehabilitation Project in accordance with 50 CFR § 404.14(b)(1). Caltrans must reinitiate consultation if: (1) new information reveals that the Project may affect listed or proposed species and their critical habitats in a manner or to an extent not previously considered; (2) the Project authorized is subsequently modified in a manner that causes an effect to the listed species or critical habitat not previously considered; or (3) a new species is listed, or critical habitat is designated that is not considered in this consultation and may be affected by the proposed Project.

If you have any questions about this consultation, please contact Ms. Karen Hans at 707- 825-5180.

Sincerely,

for Im Lagomarsino

Rodney R. McInnis
Regional Administrator

cc: Stephanie L Popiel FHWA

U.S.Department
of Transportation
Federal Highway
Administration

Central Federal Lands Highway Division
12300 West Dakota Avenue
Lakewood, CO 80228

AUG 2 2 2005

Refer to: HFHD-16, CA FH 114

Ms. Leslie Wolff
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
1655 Heindon Road
Arcata, CA 95521

Dear Ms. Wolff:

Subject: Informal Consultation
California Forest Highway 114, Hyampom Road

Based on conversations between Ms. Stephanie Popiel of this office and yourself, FHWA wishes to change some of the conservation measures we are proposing for the proposed reconstruction project on California Forest Highway 114 (CA FH 114), also known as Hyampom Road. The Biological Assessment for the project was initially sent to your office on November 19, 2004. The enclosed page indicates the changes to the Biological Assessment. The findings of "may affect, not likely to adversely affect" remains unchanged for both the Southern Oregon/Northern California coho (SONCC) salmon Evolutionarily Sensitive Unit (ESU) and its critical habitat.

At this time we would like to request informal consultation for the Southern Oregon/Northern California coho (SONCC) salmon Evolutionarily Sensitive Unit (ESU) and critical habitat.

If you have any questions, please do not hesitate to contact Ms. Stephanie Popiel, Staff Environmental Engineer, at 970-963-3690 (email: Stephanie.Popiel@fhwa.dot.gov) or write to: Federal Highway Administration, Central Federal Lands Highway Division, Attn: Environment (CA FH 114), 12300 West Dakota Avenue, Suite 280, Lakewood, CO 80228.

The FHWA appreciates your time and assistance on this project and we look forward to hearing from you soon.

Sincerely yours,

Patrick D. Flynn, P.E.
Project Manager

Enclosure

Changes to the Mitigation Measures in the BA Based on July 27, 2005 and August 11, 2005 Conversation between Stephanie Popiel, FHWA, and Leslie Wolff, NOAA Fisheries.

Page 29, BMP-2: Change to "Ground disturbing and construction work will be completed within the defined California dry season, May 1-October 31, to avoid storm water sedimentation and turbidity effects to Hayfork Creek and its tributaries. Ground disturbing and construction activities may occur outside the defined dry season based on a forecast of dry weather and permission from the National Marine Fisheries Service (NMFS). Permission may be granted by email. Ground disturbing activities will not take place when the ground is saturated."

Page 51, Avoidance and Minimization Measure #1: Change to "Conduct activities across wetland features during the dry season (May 1 – October 31).

Page 52, Avoidance and Minimization Measure #4: Changing the wording of the second sentence to say "No contaminants or other debris will enter drainages or wetlands, nor will they be deposited within 25 feet of drainages or wetland areas."

Page 52, Erosion and Sedimentation Control #1: Change to "An *Erosion and Sediment Control Plan* will be prepared and included in the final construction plans. This plan will be provided to the National Marine Fisheries Service (NMFS) for review."

Page 52, Erosion and Sedimentation Control #2: Change to "Any construction activities proposed within the ordinary high water line of a water of the United States, excluding passive vegetation removal activities above ground level (no soil disturbance), will be restricted exclusively to the dry season (May 1-October 31)."

Page 52, Erosion and Sedimentation Control #3: Change to "Ground disturbing activities will be restricted to the dry season, which is defined as May 1-October 31. Ground disturbing may occur outside the defined dry season based on a forecast of dry weather and permission from the National Marine Fisheries Service (NMFS). Permission may be granted by email. Temporary erosion and sediment control structures must be in place and operational at the end of each construction day and maintained until disturbed ground surfaces have been successfully re-vegetated."

Page 53, Accidental Spills #1: Change the last sentence to "Maintenance and fueling will be conducted in an area at least 25 feet away from waters of the United States, including Hayfork Creek, and will be conducted within a containment area. The exact parameters of the containment to be used will be identified in the *Erosion and Sediment Control Plan* and will be reviewed by the National Marine Fisheries Service (NMFS)."

Letter of Concurrence

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

NOV 16 2005

In response refer to:
151422SWR2002AR6468:LW

Mr. Patrick D. Flynn, P.E.
Project Manager
Federal Highway Administration
Central Federal Lands Highway Division
Attn: Environment (CA FH 114)
12300 West Dakota Avenue, Suite 280
Lakewood, Colorado 80228

Dear Mr. Flynn:

On August 29, 2005, NOAA's National Marine Fisheries Service (NMFS) received your August 22, 2005, letter requesting informal consultation on the proposed reconstruction of California Forest Highway 114 (CA FH 114), also known as Hyampom Road (Project), near Hyampom, California, pursuant to section 7(a)(2) of the Endangered Species Act (ESA) and its implementing regulations (50 CFR § 402).

The Project is located from kilometer post (KP) 5.9 to 10.6 [milepost (MP) 3.7 to 6.6] and KP 12.8 to 22.0 (MP 8.0 to 13.7). The Federal Highway Administration (FHWA) is proposing to develop a consistent two-lane roadway with shoulders, reduce the severity of existing tight-radius curves, place new and/or additional surface and subsurface drainage systems, replace one bridge, and place guardrails in strategic locations. Construction is expected to follow the existing road with deviations to improve substandard curves.

The Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU) was listed as threatened under the ESA by NMFS on May 6, 1997 (62 FR 24588). Critical habitat for SONCC coho salmon was designated by NMFS on May 5, 1999 (64 FR 24049). SONCC coho salmon and their designated critical habitat are in the action area and may be affected by the Project.

Hyampom Road is adjacent to the canyon containing Hayfork Creek. Currently, the known presence of coho salmon within Hayfork Creek is 1.5 miles downstream of the western terminus of the Project. However, there are no known barriers to fish migration within Hayfork Creek, and salmonid habitat exists in the portion of Hayfork Creek adjacent to the Project. The Project area also includes five perennial, non fish-bearing tributaries to Hayfork Creek, and many small ephemeral stream channels. The tributary stream channels do not contain coho salmon, or their habitat, due to the overall steepness of the stream gradient. Activities in and around non fish-

bearing drainage crossings can indirectly affect downstream coho salmon habitat. The drainages along Hyampom Road within the Project area may contribute cool water, gravel, large wood and insect drift to downstream coho salmon habitat in Hayfork Creek.

In the Potential Effects of the Proposed Action section of the consultation package, FHWA describes the potential for the short-term release of fine sediment into stream channels due to erosion of soils disturbed as a result of construction activities, as well as the potential for accidental release of oils, gas, and solvents. FHWA proposes to control the release of sediment and petroleum products through the use of conservation measures and Best Management Practices (BMPs), such as:

1) Limiting ground disturbing activities to the dry season (May 1 – October 31).
2) Providing for temporary erosion and sediment control structures until disturbed ground surfaces have been successfully re-vegetated.
3) Maintaining and fueling equipment at least 25 feet away from waterways and within a containment area at all times.

In addition, the bridge replacement and new culvert installations will also occur during the dry season. Perennial stream flow is expected to occur at five bridge or culvert replacement locations, and the stream flow will be temporarily diverted through a plastic pipe. Also, the new abutments for the bridge replacement will be located outside of the stream channel.

FHWA does not expect a significant increase in fine sediment to reach Hayfork Creek, based on the implementation of the conservation measures and BMPs, and based on the location and morphology of the stream channels within the Project area. The bridge and culvert replacements occur in tributary stream channels with step-pool morphology that allows for sediment storage and metering of sediment movement over time. Additionally, FHWA believes that it is extremely unlikely that petroleum products would enter any stream channel based on the implementation of the BMPs.

NMFS expects the proposed conservation measures and BMPs will be effective in reducing the amount of fine sediment that may enter Hayfork Creek to a very small amount. We do not expect this minor increase in fine sediment to result in adverse effects to SONCC coho salmon or their critical habitat. NMFS also expects that the implementation of conservation measures and BMPs will make it extremely unlikely that petroleum products would enter any stream channel within the Project area. Based on our review of the documents provided by FHWA, and based on our review of site conditions within the action area, NMFS concurs with FHWA's determination that the Project is not likely to adversely affect threatened SONCC coho salmon or their critical habitat.

This concludes informal consultation for the proposed action. Reinitiation of consultation is required where discretionary Federal agency involvement or control over the action has been

retained (or is authorized by law) and if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered, or (3) a new species is listed or critical habitat designated that may be affected by the action.

Please contact Ms. Leslie Wolff at (707) 825-5172 or via email at leslie.wolff@noaa.gov if you have any questions regarding this consultation.

Sincerely,

for Rodney R. McInnis
Regional Administrator